

STEVEN L. BESHEAR
GOVERNOR



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SECRETARY

COMMONWEALTH OF KENTUCKY
ENERGY AND ENVIRONMENT CABINET
MINE SAFETY REVIEW COMMISSION
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J. DUNCAN PITCHFORD
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**MINE SAFETY REVIEW COMMISSION
MINUTES**

MINUTES OF THE REGULAR MEETING OF JUNE 12, 2014: A MEETING OF THE MINE SAFETY REVIEW COMMISSION (HEREINAFTER "MSRC" OR "COMMISSION") WAS HELD IN THE CONFERENCE AND HEARING ROOM OF THE COMMISSION LOCATED AT 132 BRIGHTON PARK BLVD., FRANKFORT KY.

- **Members Present:**, Commissioner David B. Sloan and the Chair and Commissioner William D. Donan attended. Also in attendance MSRC Hearing Officer and General Counsel Bryon Alan Thompson.
- The meeting was **called to order** at 9:00 a.m. EST
- **Declaration of a Quorum:** Upon the call of the meeting, Commissioner Sloan made a motion that a quorum was present, which was seconded as appropriate. The motion carried unanimously.
- **Welcome Guests:** Energy and Environment Cabinet Executive Director Mike Haines was present. Additionally General Counsel staff attorneys for OGC were present; Ottley, Girard, Smock, Slayton and Russell who were representing the Division of Mine Safety. The Office of General Counsel was assisted by Kari Sutherland.
- The **minutes** for the meeting on **5/8/14** were discussed. Commissioner Donan made a motion for approval, which was seconded. The motion carried unanimously, and was ratified by the Chair.

□ **OMSL Motions for Sanctions, Permanent or three (3) year Revocation for failure to comply with terms of the Settlement Agreement & Final Order by MSRC resolving KRS 351.120(12) workplace suspension for alcohol and substance abuse:**

- 12-MSRC-215 Brandon Bates was called and did not appear. DMS moved for a **3 year revocation**. The motion was made, seconded and approved unanimously.
- 14-MSRC-042 & 10-MSRC-119 Steven A. Ford was called. DMS moved for sanction and a **permanent revocation**. The motion was made, seconded and approved unanimously.

□ **KRS 351.120(12) Petitions heard regarding miner appeals of workplace suspension for alcohol and substance abuse – revocations:**

- 13-MSRC-119 James N. Blankenship, appeared and requested a **settlement**. A motion was made to sustain which was seconded as appropriate. The motion carried unanimously, and was ratified.

9:00 a.m. failed to appeal or chose drug treatment cases – “new law” 3 year revocation

- 14-MSRC-027 Dustin Robinson appeared and requested a re-hearing and a **settlement** agreement. A motion was made to grant, which was seconded as appropriate. The motion carried unanimously, and was ratified by the Chair.
- 14-MSRC-063 Justin Johnson appeared and requested reinstatement citing extenuating circumstances as the reason he did not finish his last treatment. He moved for **reinstatement**. MSRC conditioned reinstatement upon his completion of therapy (which he completed at the time of this writing). A motion was made to grant, which was seconded as appropriate. The motion carried unanimously, and was ratified by the Chair.
- 14-MSRC-067 Shaun Henry, 14-MSRC-068 Ryan R. Bowman, 14-MSRC-069 Roger Stone, 14-MSRC-070 Neil Gilbert, 14-MSRC-071 Kevin Blevins, 14-MSRC-072 Jared Newcom, 14-MSRC-074 Christy Besaw, 14-MSRC-075 Jesse P Young, 14-MSRC-076 Larry J. Blair (requested re-hearing in July) and 14-MSRC-077 Dustin Webster failed to appear, defend or participate upon the call of each of their cases. OMSL requested a **3 year revocation**. A motion was made to grant, which was

seconded as appropriate. The motion carried unanimously, and was ratified by the Chair.

9:00 a.m. completed treatment & clean test drug cases, reinstate

- 14-MSRC-065 Jimmy Johnson and 14-MSRC-066 Lusiel Troya demonstrated completion of counseling and gave clean drug tests and moved to be **reinstated**. A motion was made to grant, which was seconded as appropriate. The motion carried unanimously, and was ratified by the Chair.

Petition for Order in roof control violation

- None submitted for this meeting

Non-licensed facility drug cases

- None submitted for this meeting

The Docket for "traditional" type cases:

- 13-MSRC-080 Tram Energy was called for settlement of Wright which was granted. Respondent Martin's hearing was set for July 10 however settlement is likely.
- 13-MSRC-121 K& D mining was called for a ruling on a motion for default but the matter was continued to July 10.
- 14-MSRC-019 Fields was called upon a motion to settle with Boham. This was granted and concludes this case.
- 14-MSRC-033 Brian Halbert was called and DMS moved for entry of a settlement. This was granted and concludes the case.

Old Business

□ Ratification of Final Order:

- None submitted for this meeting.

□ Appeals

The Commission discussed the status of the appeal to Franklin Circuit Court of the Final Order in 07-MSRC-088 **Jerry J. Maggard**, et al. Hon. Smock, counsel for OMSL stated the matter has been **submitted** for a

ruling. 07-MSRC-100 **Hendrickson Equipment** & James Hylton is submitted for a ruling. **13-MSRC-080 Ousley/Tram** was filed but the parties are discussing settlement.

New Business

❑ **Office & Administrative;**

❑ The General Counsel advised that the **mileage** is forty six (48) cents per mile until September.

❑ **Training:** The statutorily required mine site visits were postponed until the new Commissioner is appointed and available.

❑ **Required Hearing Officer Training:** Next required Hearing Officer Training is in June 2015 at the KY History Center. Initial Hearing Officer Training is in March 2015 for the new commissioner.

❑ **Executive Session:** The Commission adjourned to conduct an Executive session to discuss the motions & settlements in the cases as above and then reconvened to issue its determinations.

❑ **Probable Cause Determinations**

- Probable cause was found in 14-MSRC-064 Mervin Tony Hamilton, Robert Collins & Rod Couch and in 14-MSRC-078 Jonathan Morton & William Burcham

❑ **Settlement Agreements**

The Settlement Agreements were managed as indicated above in the Motions and suspensions sections.

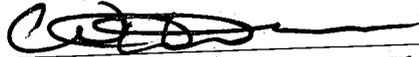
❑ **The Time Memo and Travel Vouchers** were signed and submitted for payment by the General Counsel.

❑ **NEXT MEETING:** The Commissioners acknowledged that MSRC is regularly scheduled for a regular two day meeting on Starting on **Thursday July 10, 2014.**

- **Adjournment:** Commissioner Sloan made a motion to adjourn, which was seconded and the motion carried unanimously, and was so Ordered.

The next meeting of the Mine Safety Review Commission will be held on Thursday July 10, 2014. The meeting will be held in the conference and hearing room of the Commission located at 132 Brighton Park Blvd., Frankfort KY.

Approved:



Hon. William D. Donan Chair
Mine Safety Review Commission

7/10/14.
Date